

REMARKS

Applicant thanks the Examiner for the careful consideration given to this application. Reconsideration is now respectfully requested in view of the amendment above and the following remarks.

Claims 43-69 are pending in this application. Claims 43, 56 and 64 are independent claims. Claims 43, 45-47, 54, 56, 58, 60, and 64 are amended. It is respectfully submitted that the amendments to Claims 43, 56, and 64 are supported by the specification as filed, at least at paragraphs 43-47 and the figure and that the remaining amendments are also supported by the application as originally filed. Reconsideration and allowance of the present application are respectfully requested.

Claim Rejections under 35 U.S.C. §101

Claims 64 and 67-69 stand rejected under 35 U.S.C. §101 as allegedly being directed to non-statutory subject matter. This rejection is respectfully traversed for at least the following reasons. Applicants, while disagreeing with this rejection, have amended Claim 64 (from which all of the other rejected claims depend) to recite further structure, namely, “at least one communicative coupling to couple the synthesis system to an item selected from the group consisting of a memory device, a playback device, and a communication network.” Such communicative couplings are, at least, shown in the figure. It is believed that this address the concerns discussed at pages 4-5 of the Office Action, and therefore, Applicants respectfully request that the rejections of claims 64 and 67-69 under 35 U.S.C. §101 be withdrawn.

Claim Rejections under 35 U.S.C. §102

Claims 43-46, 49, 53, 56-57, 63-66 and 69 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,953,506 to Kalra (hereinafter “Kalra”). This rejection is respectfully traversed for at least the following reasons.

The three independent claims, Claims 43, 56, and 64, from which all other claims in this application depend, have now been amended to recite “an original audio stream having audio information encoded into audio blocks that include one or more encoded values;” and that “the

modified stream is distorted with respect to the original audio stream by modifying at least one encoded value of an audio block of the original audio stream.” It is respectfully submitted that these claims are distinguishable from the teachings of Kalra for at least the following reasons.

Kalra, noting, e.g., col. 4, lines 13-59 and Figs. 2A and 2B, discloses a system in which a media stream (which may be audio, video, etc.) is divided into a “base stream” and one or more “additive streams,” which are collectively denoted an “adaptive stream.” The base stream contains a version of the media stream at a first resolution. The resolution of the transmitted information may be increased by transmitting one or more of the additive streams. As noted at col. 4, lines 24-30, a “resolution profile” associated with a multimedia device is used to determine whether and which additive streams are to be sent to the device along with the base stream, in order to provide the device with data at a resolution appropriate to the device. Nowhere does Kalra disclose or suggest the claimed “modified stream” that “is distorted with respect to the original audio stream by modifying at least one encoded value of an audio block of the original audio stream.”

At pages 2-3, the Office Action discusses how, prior to the above amendments, “at least one element of an audio block” could be understood as being anything from at least one bit to the entire original audio stream. While Applicants respectfully disagree, given the amendments of the independent claims, Applicants respectfully submit that this has addressed by reciting, “the modified stream is distorted with respect to the original audio stream by modifying at least one encoded value of an audio block of the original audio stream.” That is, an encoded value within an audio block is modified.

Further, also at pages 2-3, the Office Action discusses how splitting multimedia content into a base stream and subsequent streams corresponds to “moving of at least one bit.” However, moving at least one bit into another stream is not equivalent to “modifying at least one encoded value of an audio block of the original audio stream.” In fact, all examples discussed at page 3 of the Office Action focus on moving of some portion of original content into various streams. Nowhere is there any discussion “modifying at least one encoded value,” as claimed.

Therefore, it is respectfully submitted that, for at least these reasons, Kalra does not anticipate Claims 43, 56, and 64 or any of their dependent claims.

Claim Rejections Under 35 U.S.C. §103

Claims 47, 48, 50-52, 58 and 59 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Kalra in view of U.S. Patent No. 7,290,057 to Saunders (hereinafter “Saunders”). Claims 54 and 60 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Kalra in view of U.S. Patent No. 6,938,270 to Blackketter (hereinafter “Blackketter”). Claims 55 and 61 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Kalra in view of U.S. Patent No. 6,807,542 to Bantz (hereinafter “Bantz”). Claim 62 stands rejected under 35 U.S.C. §103(a) as being unpatentable over Kalra in view of U.S. Patent Publication No. 2002/0064285 to DeLeon (hereinafter “DeLeon”). Claims 67 and 68 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Kalra in view of U.S. Patent Publication No. 2003/0061239 to Yoon (hereinafter “Yoon”). These rejections are respectfully traversed for at least the following reasons.

All of the claims rejected under 35 U.S.C. §103(a) depend from a claim rejected under 35 U.S.C. §102(b) and have been rejected in reliance upon the same teachings of Kalra cited in the rejections under 35 U.S.C. §102(b). However, as noted above, Kalra fails to teach or suggest all of the elements of the independent claims. Applicants have also not located teachings in the other cited references that would remedy the deficiencies of Kalra. Hence, it is respectfully submitted that the claims rejected under 35 U.S.C. §103(a) are also allowable over the cited references.

Furthermore, Claim 47 recites, “wherein said data profile includes an indication of rights of a user to access content of the original audio stream.” The Office Action, at page 9, cites Saunders et al. at col. 12, lines 36-61 as disclosing this feature. However, Applicants note that this portion of Saunders et al. relates to “authoring and encoding a web component stream,” as stated at col. 10, lines 51-56, and the cited portion is specifically addressing a format writer involved in doing this. It discusses that the format writer may apply encryption for digital rights management (DRM), and *there is no discussion of any user profile whatsoever*.

The Office Action, at page 4, argues “that Kalra already provides for a profile, and that one of ordinary skill in the art would note the correlation between the profile of Kalra and the designation of rights and/or license, for example, of Saunders in that both are used to provide

appropriate data to the user.” Applicants, however, note that there is absolutely no nexus between Saunders’ teachings and a user profile. The digital rights management (DRM) techniques of Saunders do not rely upon a user profile; in fact, Applicants find no mention of how it is determined who has rights; for example, in contrast with providing rights information in a user profile, a user could be provided with a password. Saunders simply does not address this, and therefore, there are no teachings in Saunders that address Claim 47. Hence, it is respectfully submitted that Saunders et al. fails to address the elements of Claim 47 and that, therefore, for this further reason, Claim 47 is allowable over the cited references.

Disclaimer

Applicants may not have presented all possible arguments or have refuted the characterizations of either the claims or the prior art as found in the Office Action. However, the lack of such arguments or refutations is not intended to act as a waiver of such arguments or as concurrence with such characterizations.

CONCLUSION

In view of the above, consideration and allowance are respectfully solicited.

In the event the Examiner believes an interview might serve in any way to advance the prosecution of this application, the undersigned is available at the telephone number noted below.

The Office is authorized to charge any necessary fees to Deposit Account No. 22-0185.

Applicant believes no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 22-0185, under Order No. 27592-01111-US from which the undersigned is authorized to draw.

Dated: October 20, 2009

Respectfully submitted,

Electronic signature: /Jeffrey W. Gluck/
Jeffrey W. Gluck
Registration No.: 44,457
CONNOLLY BOVE LODGE & HUTZ LLP
1875 Eye Street, NW
Suite 1100
Washington, DC 20006
(202) 331-7111
(202) 572-0322 (Direct Dial)
(202) 293-6229 (Fax)
Attorney for Applicant